provide antecedent basis for the term "transaction indicia". Withdrawal of the rejection of claim 30 is respectfully requested.

35 U.S.C. § 102 Rejection

Claims 21-39, 42 and 43 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,364,206 to Keohane. As stated in the previously-submitted Amendment, filed August 12, 2002, claims 21-37 have been copied from the Keohane patent and correspond to claims 1-4, 6, 7, 9-12, 31-33, 35-37 and 39 of the Keohane patent. Therefore, claims 21-37 are presumed to be valid over the remaining prior art. The claims have been copied for the purpose of invoking an interference proceeding with the Keohane patent. The remarks in this previously-submitted Amendment are incorporated herein by reference.

35 U.S.C. § 103 Obviousness Rejection

Claims 40, 41, 44 and 45 stand rejected under U.S.C. § 103(a) as being obvious over the Keohane patent in view of U.S. Patent No. 6,119,932 to Maloney et al. (hereinafter "the Maloney patent"). Applicant respectfully disagrees with the Examiner's rejection in this regard. The Maloney patent is directed to identification verification apparatus and methods. It is noted that the Examiner has used the Maloney patent to cure the deficiencies of the Keohane patent by attempting to demonstrate their combination. As set forth in MPEP § 2143.03, to establish *prima facie* obviousness of a claimed invention all of the claim limitations must be taught or suggested by the prior art. Further, the Examiner cannot use the claims as a blueprint for locating separate claim elements in separate prior art references without considering the teachings of the prior art as a whole and without considering the complete teachings of the separate references. There is nothing in the Keohane patent and the Maloney patent which suggest the desirability of their combined

teachings. There is no incentive to combine these two references together in order to arrive at the subject matter of the present application. In the absence of some "clear and particular" motivation to combine the teachings of the cited prior art, the objection is improper. Winner Int'l Royalty Corp. v Wang, 202 F.3d, 1340, 1348-49 (Fed. Cir. 2000).

For the foregoing reasons, claims 40, 41, 44 and 45 are not anticipated by or rendered obvious over the Keohane patent and/or the Maloney patent. There is no hint or suggestion in the references cited by the Examiner to combine these references in a manner which would render the invention, as claimed, obvious. Reconsideration of the rejection of claims 40, 41, 44 and 45 is respectfully requested. Regardless, Applicant asserts that he had conceived of the claimed invention prior to the effective date of the Keohane patent, as will be established in the interference discussed below. With the establishment of the earlier date of invention, the Keohane patent will not be a relevant reference (i.e., will not be prior art). To the extent the Examiner maintains his obviousness rejection of claims 40, 41, 44 and 45, Applicant respectfully requests that the Examiner set up an appropriate interference count(s) directed to these claims.

Interference

In paragraph 8 of the Office Action, the Examiner has requested evidence, such as an affidavit or a declaration, in order to invoke the interference procedure. Applicant has already submitted the necessary material to provoke an interference. Pursuant to 37 C.F.R. § 1.608, when the effective filing date of an application is three months or less after the effective filing date of a patent, before an interference will be declared, either the applicant or the applicant's attorney or agent of record shall file a statement alleging that there is a basis upon which the applicant is entitled to a judgment relative to the patentee. Applicant respectfully submits that such statements were made by the Applicant's Attorney of Record in the Amendment, filed August 12, 2002. The earliest effective filing date for the

Keohane patent is January 19, 2000. As set forth on page 6 in the Remarks section of the previously-submitted Amendment, the present application was filed on February 1, 2001 and claims priority to Provisional Application Serial No. 60/179,821, filed on February 2, 2000. Further, on page 6, Applicant's attorney respectfully requests that an interference proceeding should be initiated and explicitly state that the Applicant "conceived of the present invetnion well before the filing date of the Keohane patent, namely January 19, 2000. This request was again given on page 11 of the Amendment, wherein the Applicant, through the undersigned attorney, asked for a declaration of interference for claims 21-37. Therefore, the Applicant, through his Attorney of Record already made statements alleging that there is a basis upon which Applicant is entitled to Judgment relative to the patentee. No further evidence or declaration is required. Applicant respectfully requests withdrawal of the Examiner's requirement for further evidence and declaration of an interference for claims 21-37.

To the extent the Examiner believes that the above statements were ineffective in initiating an interference proceeding, the undersigned hereby states as follows:

The undersigned attorney for Applicant hereby declares that there is a basis upon which the Applicant is entitled to a judgment relative to the patentee, since the Applicant conceived of the claimed invention well before the filing date of the Keohane patent. The effective filing date of the present application, February 2, 2000, is three months or less after the effective filing date of the Keohane patent, January 19, 2000 such that the interference should proceed as set forth in 37 C.F.R. 1.608. Accordingly, a declaration of interference for claims 21-37 is respectfully requested.

For all the foregoing reasons, Applicant believes that claims 40, 41, 44 and 45 are patentable over the cited prior art and in condition for allowance. Reconsideration of the rejection and allowance of claims 40, 41, 44 and 45 are respectfully requested. Furthermore, a declaration of interference for claims 21-37 is respectfully requested. To the extent the

Examiner maintains his rejections of claims 38-45 over the prior art of record, Applicant respectfully requests that the Examiner set up and establish the appropriate interference counts.

Respectfully submitted,

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MARKED-UP CLAIMS

30 (Amended) A fuel dispensing system comprising:

a fuel dispenser including a customer interface for conducting a transaction including a lottery ticket purchase and a payment acceptor for receiving a payment for the transaction;

a lottery ticket dispenser associated with said fuel dispenser for dispensing lottery tickets;

a control system operatively associated with said fuel dispenser and said lottery ticket dispenser and adapted to cause said lottery ticket dispenser to dispense a lottery ticket to a customer in response to receiving the payment for the transaction through said payment acceptor in said fuel dispenser; and

[said] transaction indicia related to the purchase of a lottery ticket through said fuel dispenser communicated to the customer and to said lottery ticket dispenser by said fuel dispensing system.